

VZCZCXR06748  
RR RUEHDU RUEHMR RUEHPA RUEHRN RUEHTRO  
DE RUEHSA #2763 3651030  
ZNY CCCCC ZZH  
R 301030Z DEC 08  
FM AMEMBASSY PRETORIA  
TO RUEHC/SECSTATE WASHDC 6825  
INFO RUEHZO/AFRICAN UNION COLLECTIVE  
RUEHTN/AMCONSUL CAPE TOWN 6413  
RUEHDU/AMCONSUL DURBAN 0539  
RUEHSA/AMCONSUL JOHANNESBURG 8761  
RHEFDIA/DIA WASHINGTON DC  
RUEAIIA/CIA WASHINGTON DC  
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L PRETORIA 002763

SIPDIS

E.O. 12958: DECL: 12/29/2018  
TAGS: KJUS PGOV KDEM SF  
SUBJECT: MOTLANTHE MAKES SOLID FIRST CHOICE FOR  
CONSTITUTIONAL COURT

Classified By: DEPUTY POLITICAL COUNSELOR MADELINE Q. SEIDENSTRICKER FO  
R REASONS 1.4 (B) AND (D).

-----  
Summary  
-----

**¶1.** (C) President Kgalema Motlanthe is drawing praise from the media and community activists for his appointment of Edwin Cameron to the Constitutional Court, South Africa's highest court. Motlanthe finalized the appointment last week and will have the opportunity to confirm four more justices in coming months as there will be additional openings following retirements from the bench. Cameron brings a lengthy record as a human rights lawyer to his position and will be the first openly gay justice on the Court. What is perhaps most interesting about Cameron's background is that he has experience investigating illegal arms deals during his time as a judge, suggesting that if an arms inquiry ever ended up in court he could be positioned to take the lead on the Court's decision. End Summary.

-----  
Motlanthe Chooses Cameron  
-----

**¶2.** (U) President Kgalema Motlanthe last week confirmed that Edwin Cameron, who most recently served as a Supreme Court of Appeals justice, would replace Justice Tholekile Madala on the bench. Madala's appointment on the bench is scheduled to end in 2008. Cameron brings an extensive human rights record to the bench and has been described as the best legal mind of his generation. His career as an anti-apartheid lawyer opposed forced removals, military conscription, unfair labor practices, and censorship. He was one of the first justices appointed by former President Nelson Mandela and he has built a substantive jurisprudence record on equality, rights to social security, freedom of expression, and rights of rape survivors. In October 1994, Mandela appointed him an Acting Judge of the High Court to chair a commission into illegal arms deals. He was appointed permanently to the High Court in 1995. From 1999 to 2000 he served for a year as an Acting Judge in the Constitutional Court before being appointed to the Supreme Court of Appeals.

**¶3.** (U) Academics, journalists, community activists, and bloggers praised Motlanthe for officially confirming Cameron onto the Constitutional Court. (Note: The process for appointing a Constitutional Court justice is involved, as it includes a vetting process that includes the legal community -- the Judicial Services Commission, the media, and the public before it goes to the government for final confirmation. End Note.) The Treatment Action Campaign congratulated Cameron for his selection. Cameron is not only

the first openly gay justice to serve on the Court, he also is the first justice to live openly with HIV. University of Western Cape professor Pierre de Vos called the selection a "nice Christmas present." The media hailed the selection as "an affirmation of the Bill of Rights, rule of law, and non-racialism." The Witness noted that Cameron's selection is only the beginning of a tough process as there will be four more openings to fill in April 2009. Judge President Pius Langa, Judge Kate O'Regan, Judge Albie Sachs, and Judge Yvonne Mokgoro are all due to retire this year.

-----  
Comment  
-----

¶4. (C) Motlanthe clearly pleased a lot of journalists and activists with his confirmation of Cameron. At the same time, the appointment also sends some other important signals. At the same time, the appointment also sends some other important signals about the President's leadership. First, the President sent a message that the rule of law would be respected and that he would listen to experts and pundits in the legal community, media, and public before making a final decision. Second, he let it be known once again that he would not fall in line with the former President Thabo Mbeki's stance on HIV.

(Note: Cameron was one of the first prominent legal scholars to speak out against Mbeki's HIV policy. End Note.) Third, Motlanthe's appointment sends the message that even if he decides not to pursue an arms inquiry into the controversial 1998 arms deal there are leaders in high places prepared to deal with implications of such transactions.

BOST